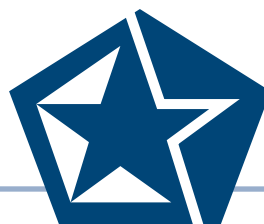




Bureau of Justice Assistance

Program Brief



Defense Procurement Fraud Debarment Clearinghouse

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The Defense Procurement Fraud Debarment Clearinghouse, operated by the Bureau of Justice Assistance (BJA), Office of Justice Programs, U.S. Department of Justice, was established by Section 815, Subsection 10, of the National Defense Authorization Act for fiscal year (FY) 1993 [Public Law 102-484, United States Code, Section 2408 (c)]. This provision required the U.S. Attorney General to establish a single point of contact for contractors or subcontractors of the U.S. Department of Defense (DOD) to promptly confirm whether potential employees have been convicted of defense contract-related fraud or any other felony. The clearinghouse serves as this point of contact.

DOD contractors and subcontractors must verify this information because individuals who have been convicted of fraud or any other felony arising out of a contract with DOD are prohibited from contracting with DOD under the National Defense Authorization Act of 1989 (Public Law 100-456).

Richard R. Nedelkoff, Director

www.ojp.usdoj.gov/BJA

August 2002





About BJA

The Bureau of Justice Assistance was established in 1984 as a component of the Office of Justice Programs, U.S. Department of Justice. BJA provides leadership and resources to state, local, and tribal governments and communities to reduce crime, violence, and drug abuse and to strengthen the nation's criminal justice system. BJA provides this assistance through formula and discretionary grants, training and technical assistance, publications, and the BJA web site.

For Further Information

For information about the Debarment List, write or call:

General Services Administration

Office of Acquisition Policy
18th and F Streets NW.
Washington, DC 20405
202-501-4873

For additional information about the Defense Procurement Fraud Debarment Clearinghouse, contact:

Bureau of Justice Assistance

810 Seventh Street NW.
Washington, DC 20531
301-809-4904
Fax: 301-860-1837
Web site: www.ojp.usdoj.gov/BJA

For publications and information on other BJA-funded programs, contact:

Bureau of Justice Assistance Clearinghouse

P.O. Box 6000
Rockville, MD 20849-6000
1-800-688-4252
Web site: www.ncjrs.org

Clearinghouse staff are available Monday through Friday, 8:30 a.m. to 7 p.m. eastern time. Ask to be placed on the BJA mailing list.

Debarment

Any individual convicted after September 29, 1988, of fraud or any other felony arising out of a contract with DOD [as these terms are defined by DOD, pursuant to Defense FAR Supplement (DFARS) Part 217.500, Subpart 203.570-2] shall be prohibited from the following activities:

- ◆ Working in a management or supervisory capacity on any defense contract or any first-tier subcontract of a defense contract.
- ◆ Serving on the board of directors of any defense contractor or any subcontractor awarded a contract directly by a defense contractor.
- ◆ Serving as a consultant, agent, or representative to any defense contractor or any subcontractor awarded a contract directly by a defense contractor.
- ◆ Serving in any capacity with the authority to influence, advise, or control the decisions of any defense contractor or subcontractor with regard to any DOD contract or first-tier subcontract.

This restriction does not apply to the following:

- ◆ A contract, as specified above, that is not greater than the simplified acquisition threshold.
- ◆ A contract, as specified above, that is for the acquisition of commercial items.
- ◆ A subcontract that is under a contract as specified above.

DOD has sole responsibility for determining the period of prohibition as described above. The prohibition period:

- ◆ Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security.
- ◆ May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide



a copy of the determination to the Bureau of Justice Assistance.

Definitions

In applying the provisions of the law, DOD interprets its terms as follows:

- ◆ *Conviction of fraud or any other felony* means any conviction for fraud or a felony in violation of federal or state criminal statutes, whether the conviction was entered on a verdict or a plea (including a plea of nolo contendere), for which a sentence has been imposed.
- ◆ *Arising out of a contract with DOD* means an act in connection with attempting to obtain, obtaining, or performing a contract or first-tier subcontract of any agency, department, or component of DOD.
- ◆ *Date of conviction* means the date judgment was entered against the individual.

As prescribed in Section 4(11) of the Office of Federal Procurement Policy Act [41 U.S.C. 403 (11) and (12)]:

- ◆ *Simplified acquisition threshold* means \$100,000.
- ◆ *Commercial item* includes:
 - ◆ Any item customarily used by the general public.
 - ◆ Installation services, maintenance services, repair services, training services, and other services.
 - ◆ Services offered and sold competitively, in substantial quantities, in the commercial marketplace.

Penalty to Contractors and Subcontractors

A defense contractor or subcontractor who knowingly employs a person under prohibition or allows such a person to participate in activities covered under the Debarment section is subject to a criminal penalty of up to \$500,000.

How the Clearinghouse Obtains and Manages Information

Defense-related fraud and felony cases are tried in federal court and prosecuted by a U.S. Attorney. U.S. Attorneys' Offices submit copies of sentencing orders for all individuals convicted of defense-related fraud or felony in their districts to the Defense Procurement Fraud Debarment Clearinghouse on a quarterly basis. BJA maintains a list of people who have been disqualified from contracting with DOD based on these sentencing orders.

Clearinghouse Services

The clearinghouse responds to inquiries from federal agencies, DOD contractors, and first-tier subcontractors as required to determine employment or contract eligibility. The clearinghouse also forwards pertinent information to the U.S. General Services Administration (GSA), where the information is coded to identify the specific category of federal exclusion, which is included in the GSA publication *Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs*, more commonly known as the Debarment List. The exclusion is categorized according to the specific cause (i.e., the statute violated and the treatment or exclusion).

Federal agencies may purchase annual subscriptions to the Debarment List from the U.S. Government Printing Office. Nonfederal persons or organizations should contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, 202-512-1800. Reference stock number: 722-002-00000-8. Electronic access to the Debarment List is available at <http://epls.arnet.gov> or by dialing the electronic bulletin board at 202-219-0132. The settings are N-8-1-F.

Defense Procurement Fraud Debarment Clearinghouse staff are available Monday through Friday from 8 a.m. to 5 p.m. e.t. at 301-809-4904.

NCJ 193771
August 2002

